IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

EMMITT GRIER, JR., Plaintiff,)
v.) C.A. No. 05-5 ERIE
EDWARD KLEM, et al,	}
Defendants.)

MEMORANDUM ORDER

Plaintiff's complaint was received by the Clerk of Court on January 6, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistr ate judge's report and recommendation, filed on May 15, 2006, recommended that Defendants' motions to dismiss the complaint (Docs. 23 and 30) be granted, that Plaintiff's motions for summary judgment (Docs. 38 and 41) be denied, and that this case be dismissed as an improper attempt to collaterally attack Plaintiff's state court criminal conviction and sentence. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff at SCI Mahanoy, where he is incarcerated, and on Defendants. Objections were filed by Plaintiff on June 1, 2006. After de novo review of the pleadings and documents in the case, together with the report and recommendation and objections thereto, the following order is entered:

AND NOW, this $\frac{1}{2}$ P Day of June, 2006;

IT IS HEREBY ORDERED that Defendants' motions to dismiss the complaint (Docs. 23 and 30) are GRANTED, that Plaintiff's motions for summary judgment (Docs. 38 and 41) are DENIED, and it is further

ORDERED that this case is DISMISSED as an improper attempt to collaterally attack Plaintiff's state court criminal conviction and sentence.

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The	e report and recommendation of Magistrate Judge Baxter, dated May 15, 2006,
is adopted as the op	inion of the court.
	MAURICE B. COHILL, JR.
	United States District Judge

cc: Susan Paradise Baxter
U.S. Magistrate Judge
all parties of record _____